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IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA

Middle

EBRA R. HACKETT
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

PRISONER COMPLAINT [FOR INMATE ACTION] UNDER 42 U.S.C. § 1983

Lorinie Thomas Funderburk
Name under which you
were convicted

2:07CV1039-mef

158627
Your prison number

vs. B+R Wrecker Service CIVIL ACTION NO. _____
(To be supplied by Clerk of Court)

635 Howe 36104 (owner) Billy Rayburn (manager)
Name of Defendant(s)

A.D.O.C. Kilby Mt. Meigs Alabama P.O. BOX 150 Zip 36057
Place of confinement and Address

INSTRUCTIONS - READ CAREFULLY

A. Complaint Form. You must file your original complaint and a copy for each named Defendant. Your complaint must be clearly handwritten or typewritten. Do not use the back of a page. Your complaint must be signed by you; no notary is required. Any false statement of material fact may serve as the basis for prosecution for perjury.

B. Proper Court. Your complaint can only be brought in this Court if a defendant is located in the Southern District of Alabama and the rest of the defendants are located in Alabama or if your claim arose in this district. The Southern District of Alabama is comprised of the following counties: Baldwin, Clarke, Choctaw, Conecuh, Dallas, Escambia, Hale, Marengo, Mobile, Monroe, Perry, Washington, and Wilcox, Montgomery

C. Separate Case. It is necessary to file a separate complaint form for each claim unless the claims are related to the same incident or issue.

Revised 6/3/96

D. Defendants. The persons who are listed as defendants in section III of the complaint are deemed by the Court to be the only defendants to this action. A defendant's present address must be provided. The Court is unable to serve process without the present address being furnished. The first defendant listed in section III should be the defendant that you list in the style of your case on your complaint form and motion to proceed without prepayment of fees and costs, if applicable, and any other pleading filed with the Court.

E. Pleading the Complaint. Your complaint should not contain legal arguments, case law or statutory citations. You are required to provide facts. Your complaint shall be a short and plain statement of your claim and shall provide fair notice to each defendant of the claim against that defendant and of the factual grounds upon which the claim rests.

F. Fees. This complaint cannot be properly filed unless it is accompanied by the \$150.00 filing fee or a motion to proceed without prepayment of fees and costs if you are unable to afford the filing fee and other costs associated with prosecuting this action.

If you are unable to pay the filing fee and service costs for this action, you may ask the Court to let you proceed without prepayment of fees and costs. A blank motion for this purpose is included.

If you wish to proceed without prepayment of fees and costs, you must complete and mail to the Clerk of Court a copy of the "Motion to Proceed Without Prepayment of Fees and Costs" mailed to you with this complaint. This motion will be returned to you without action unless you have an authorized officer at the jail or prison complete the financial statement mailed to you with this form.

Even if the Court authorizes you to proceed without prepayment of filing fees, you are obligated to pay the full \$150.00. If you have the ability to pay a partial filing fee when your complaint is filed, you will be required to pay an amount, based on your assets, of up to the greater of 20 percent of your average monthly balance in your prison account or your average monthly balance for six months immediately preceding the filing of your complaint. Thereafter, your prison account will be garnished at the rate of 20 percent of your monthly income until the filing fee is paid.

G. Form of Pleadings. All pleadings and other papers filed must be on 8 1/2" x 11" paper, legibly handwritten or typewritten. Every document filed after the complaint must have the style of the case and the docket number. Every pleading must be signed by you and must contain your address and telephone number, if any;

otherwise, the pleading will be stricken. See Fed. R. Civ. P. 11(a). No notary is required.

H. Certificate of Service. Each pleading filed after the complaint must contain a certificate of service indicating that the pleading has been served on the opposing parties and the date that it was sent. A pleading will be stricken if it does not contain this certificate of service. See Fed. R. Civ. P. 5.

I. Copies. This Court will not make copies of your complaint or pleadings unless you prepay the required per page copying fee.

J. Form of Pleadings. Do not write letters to the Court. All pleadings and documents should be sent to the Clerk of the Court, and not to a magistrate judge or a district judge.

K. No Evidence. No evidence shall be sent to the Court for filing or storing.

I. PREVIOUS LAWSUITS.

A. Have you filed any other lawsuits in state or federal court dealing with the same or similar facts involved in this action:
Yes () No ()

B. Have you filed other lawsuits in state or federal court relating to your imprisonment: Yes () No ()

C. If your answer to questions A or B above is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using this same outline.)

1. Parties to this previous lawsuit:

Plaintiffs: _____

Defendants: _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket Number: _____

4. Were you granted the opportunity to proceed without payment of filing fees? Yes () No ()

5. Name of judge to whom the case was assigned: _____

6. If your case is no longer pending and has been dismissed, state the reason given by the Court as to why your case was dismissed, i.e., frivolous, malicious, failed to state a claim, defendants were immune, etc.: _____

7. Approximate date of filing lawsuit: _____

8. Approximate date of ruling by court: _____

II. YOUR PRESENT COMPLAINT.

A. Place or institution where action complained of occurred:

B&R Wrecker Service Howe St. 36104 (owned) Billy Rayburn

B. Date it occurred: on or around 9-21-2007

C. Is there a prisoner grievance procedure in this institution?

NOT APPLICABLE

D. Did you present the facts relating to your complaint in the state prisoner grievance procedure? Yes () No ()

E. If your answer is YES:

1. What steps did you take? _____

2. What was the result? _____

F. If your answer is NO, explain why not: _____

G. Your claim (briefly explain your claim: what, when, where, who; do not cite cases; you may, without leave of Court, add up to five (5) additional pages if necessary): on or around the month

and the day of September the 21st of 2007 B+R Wrecker Service impounded my 1976 F-100 Ford Truck + my property which consist of: My Cloths + legal documents, Tools that I make my living with - Pictures that can't be replaced and on the same day I became incarcerated At Montgomery Co. Jail. At this time I contacted several friends to go by and pick my belongings, B+R said no. Then I wrote B+R a letter stating to whom could come and pick up my property. On 10/25/2007, I had a Notary Public of the State of AL (April King) notarize it on Oct. 26-07 1:44 P.M. at Perry Co. Jail. I Faxed a copy at that time (Perry Co's Fax NO. 3446288886 / B+R's Fax # (334) 8341654, I called B+R wrecker and was instructed by the Secretary on or around Oct. 26, 2007 At 1:30 P.M. to see if the fax was received. It was and was told that a friend could come to retrieve the property. I called Mr. Mike Daniel with instructions to pick up my property. On or about Nov. 2nd 2007, Mr. Daniels went to retrieve my property. At The B+R wrecker Service, Mr. Daniels was told that He could not Take possession of the property that a hold was placed on by the owner Billy Rayburn. Mr. Rayburn wanted 1300 dollars for the fees Accumulated by the impound in opposition to the understanding that was Agreed upon by me and the manager concerning the property on + inside the truck.

I have become upset + nervous to the point of not sleeping and loss of Appetite, I have seen the mental health doctor here at Kilby, He put me on Antidepressants. I have complied with the directions as stipulated by the manager of B+R. However, They breached this verbal Agreement, It is Because of this Breach of TRUST I was unable to retrieve my property for which I am seeking relief, Due to pain and suffering and mental Anguish from the named Defendants.

III. PARTIES.

- ✓ A. Plaintiff (Your name/AIS): Lonnie Thomas Funderbunk #158627
 Your present address: P.O. Box 150 MT-Meigs AL 36057
- ✓ B. Defendant(s):
1. Defendant (full name) owner Billy Rayburn is employed as owner at B+R Wrecker Service 635 Howe St.

His/her present address is B+R Wrecker Service 635 Howest 36104

(a) Claim against this defendant: Breach of trust ^{Montgomery AL}

(b) Supporting facts (Include date/location of incident):

See Page 4 and 5

✓ 2. Defendant (full name) MANAGER 8-5 is employed

as Manager at B+R Wrecker Service 635 Howest
Montgomery AL, 36104

His/her present address is _____

(a) Claim against this defendant: Breach of Trust

(b) Supporting facts (Include date/location of incident):

See Page 4 and 5

3. Defendant (full name) _____ is employed

as _____ at _____

His/her present address is _____

(a) Claim against this defendant: _____

(b) Supporting facts (Include date/location of incident):

C. Additional Defendants: (If there are additional defendants, you may list them on separate pages using the same outline above).

✓ IV. A. You must answer the following questions:

1. State the conviction(s) for which you are presently incarcerated: POSS of Burglar's Tools

2. When were you convicted? Jan. 12th 2006

3. What is the term of your sentence? 15 years

4. When did you start serving this sentence? Jan 1st 2006

5. Do you have any other convictions which form the basis of a future sentence? Yes () No (✓)
If so, complete the following:

(a) Date of conviction: _____

(b) Term of sentence: _____

6. What is your expected end of sentence (E.O.S.) date?

✓ July 17th 2011

B. If this present lawsuit concerns your criminal conviction or sentence, state whether your conviction has been:

	Conviction	Sentence
Reversed	yes() no(✓)	yes() no(✓)
Expunged	yes() no(✓)	yes() no(✓)
Invalidated	yes() no(✓)	yes() no(✓)
Writ of habeas corpus granted	yes() no(✓)	yes() no(✓)

C. If you answered yes to any of the questions, state the Court or entity that relieved you from your conviction or sentence and the date:

V. State briefly exactly what you want the Court to do for you if you win (make no legal argument, cite no cases or statutes):

I want my property back including my truck

I would like to be compensated for
punitive damages 5 million dollars, compensatory damages
in the tune of 150,000 dollars.

VI. **AFFIRMATION.** By my signature below, I swear or affirm under penalty of perjury that the facts set out in this complaint are true and correct.

11/24/2007

Date

Lonnie Funderbuck

(Signature of Plaintiff Under
Penalty of Perjury)

P.O. Box 150 Mt. Meigs AL 36057

Current Mailing Address

Telephone Number

PLAINTIFF SHALL IMMEDIATELY ADVISE THE COURT IN WRITING OF ANY
CHANGE IN HIS ADDRESS. E.G., RELEASED, TRANSFERRED, MOVED, ETC.
FAILURE TO NOTIFY THE COURT OF A NEW ADDRESS WILL RESULT IN THE
DISMISSAL OF THIS ACTION FOR FAILURE TO PROSECUTE AND TO OBEY THE
COURT'S ORDER.

Lonnie F. Jenkins #15867
P.O. Box 150
MT. Meigs, AL, 36057



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from an Alabama State Prison. The contents
have not been evaluated, and the Alabama
Department of Corrections is not responsible
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"Legal Mail"

Debra Nackerp
The Clerk of Court
P.O. Box 711
Montgomery, ALA.

36101

